

SUBCHAPTER A—GENERAL PROVISIONS

PART 1502—AVAILABILITY OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

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AUTHORITY: 5 U.S.C. 552; 12 U.S.C. 1441a(a) (2) and (13).

SOURCE: 57 FR 53240, Nov. 9, 1992, unless otherwise noted.

§ 1502.1 Authority, purpose, and scope.

(a) *Authority*. This part is issued by the Thrift Depositor Protection Oversight Board (Board) pursuant to 5 U.S.C. 552 and 12 U.S.C. 1441a(a) (2) and (13).

(b) *Purpose*. This part sets forth the kinds of information made available to the public and the rules and procedures for obtaining documents and records of the Board.

(c) *Scope*. This part applies to the information and records of the Board, an instrumentality of the United States separate and distinct from the Resolution Trust Corporation (RTC); and this part does not govern or set forth procedures for the implementation of the Freedom of Information Act by the RTC. This part explains:

(1) The kinds of information which the Board is required to publish in the FEDERAL REGISTER;

(2) The kinds of records made available to the public on request;

(3) The kinds of information made exempt from disclosure;

(4) The procedures for obtaining records and for processing requests;

(5) The schedule of fees for processing requests; and

(6) The procedures for appealing denials of requests for information.

§ 1502.2 Definitions.

As used in this part, the following terms shall have the following meanings:

(a) *Agency* has the meaning given in 5 U.S.C. 551(1) and 5 U.S.C. 552(e).

(b) *Appeal* means the administrative appeal by a requester of an adverse initial determination on a request for records, as described in 5 U.S.C. 552(a)(6)(A)(ii).

(c) *Business information* means trade secrets and commercial or financial information provided to the Board that arguably is exempt from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4).

(d) *Denial* means a denial, based upon an exemption of the Freedom of Information Act, of a request for records, or a denial of a fee waiver request.

(e) *Director* means the Board's Vice President for Public Affairs or, in case of the absence or a vacancy in the office of the Vice President, the head or acting head of the Board's Office of Public Affairs.

(f) *President* means the President of the Board.

(g) *Request*, except for the purposes of § 1502.10, means any request for Board records made pursuant to 5 U.S.C. 552(a)(3).

(h) *Requester*, except for the purposes of § 1502.10, means any person who makes a request to the Board pursuant to 5 U.S.C. 552(a)(3).

(i) *Submitter* means any person or entity that provides business information to the Board.

§ 1502.3 Published information.

(a) Subject to the exemptions described or referred to in § 1502.11 and to paragraph (b) of this section, pursuant to 5 U.S.C. 552(a)(1) the Board shall separately state and currently publish in the FEDERAL REGISTER for the guidance of the public:

(1) Descriptions of its organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

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(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which such forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Board; and

(5) Each amendment, revision, or repeal of the foregoing.

(b) Except to the extent that a person has actual and timely notice of the terms thereof, such person is not required in any matter to resort to, or be adversely affected by, a matter required to be published pursuant to paragraph (a) of this section and not so published. For the purposes of this section, matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when it is incorporated by reference therein with the approval of the Director of the Federal Register.

§ 1502.4 Public inspection and copying.

(a) Subject to the exemptions described or referred to in § 1502.11 and to paragraphs (b), (d), and (e) of this section, the Board shall make available for public inspection or copying:

(1) Final opinions of the Board, including concurring and dissenting opinions, as well as orders of the Board, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the Board and are not published in the FEDERAL REGISTER; and

(3) Administrative staff manuals and instructions of the Board to staff that affect a member of the public.

(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Board may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. In each case, however, the justification for the deletion shall be explained in writing.

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The Director is authorized to act for the Board in implementing this paragraph.

(c) The Board shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated and required by this section to be made available or published. The Board shall provide copies of such an index on request at a cost not to exceed the direct cost of duplication.

(d) A final order, opinion, statement of policy, interpretation, or staff manual or instruction described in paragraph (a) of this section that affects a member of the public may be relied on, used, or cited as precedent by the Board against a party other than an agency only if such document has been indexed and made available pursuant to this section or the party has actual and timely notice of the terms of the document.

(e) Applications to inspect or copy records of the Board that are made available in accordance with paragraphs (a) and (c) of this section shall be made to the Board's Office of Public Affairs, 1777 F Street, NW., Washington, DC 20232.

§ 1502.5 Specific requests for records.

(a) Except with respect to the records made available pursuant to § 1502.3 and § 1502.4, and subject to the application of the exemptions in § 1502.11, the Board, upon any request for records that reasonably describes such records and complies with this part, shall make such records promptly available to any person.

(b) Records exempt from disclosure to the public pursuant to 5 U.S.C. 552(b), as described in § 1502.11, may be released if the President or the Board's General Counsel determines that disclosure is in the public interest, provided that such disclosure is not prohibited by statute, regulation, or order.

§ 1502.6 Request procedures.

(a) *Written requests.* Except as provided in paragraph (d) of this section, each request for Board records shall be made in writing, signed by or on behalf of the person making the request, and